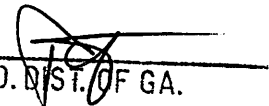


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

20 JUL 17 AM 9:10

CLERK 
SO. DIST. OF GA.

MICHAEL D. BATTLE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CV 120-038
(Formerly CR 118-052)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. (Doc. no. 9.) In his objections, Petitioner requests the appointment of appellate counsel and makes clear his desire to file a notice of appeal. (*Id.*) As explained below, the Court has appointed new counsel to represent Petitioner on direct appeal, and he shall have fourteen days from the date of entry of the new Judgment to file a notice of appeal.

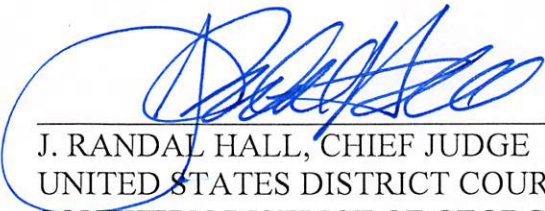
Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion. Therefore, the Court **GRANTS** Petitioner's motion filed pursuant to 28 U.S.C. § 2255 as to the out-of-time appeal and **DISMISSES** without prejudice all other claims raised in the § 2255 motion. The Court **VACATES** Petitioner's judgment in the underlying criminal case. CR 118-052, doc. no. 139. Simultaneous with the entry of this

Order, the Court is entering a new Judgment in a Criminal Case that reimposes the same sentence, identical in all respects to the original Judgment, save only for the date of entry.

The Court **HEREBY ADVISES** Petitioner that with the entry of the new Judgment, he shall have all the rights associated with an appeal from any criminal sentence. The Court also specifically advises Petitioner the entry of the new Judgment creates a fourteen-day period within which Petitioner may prosecute a direct appeal of his criminal conviction. Thus, Petitioner shall have fourteen days from the date of entry of the Judgment to file a notice of appeal. Attorney Michael N. Loebl has been appointed to represent Petitioner on direct appeal. See id., doc. no. 159.

Finally, the Court **DIRECTS** the Clerk to **CLOSE** this civil action and **ENTER** an appropriate final judgment in favor of Petitioner.

SO ORDERED this 17th day of July, 2020, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA